

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

FILED-CLERK
U.S. DISTRICT COURT
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THE EASTERN-MARSHALL

SKULLCANDY, INC

Plaintiff,

vs.

ANYCOM TECHNOLOGIES, INC.,
AUDIOVOX CORPORATION,
CARDIO SYSTEMS, INC., I-O DATA
DEVICE USA, INC., and MUSTEK, INC.

Defendants

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Case No. **2-08 CV-090**

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JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Skullcandy, Inc. ("Skullcandy") brings this action against defendants Anycom Technologies, Inc., Audiovox Corporation, Cardio Systems, Inc., I-O Data Device USA, Inc., and Mustek, Inc. (all defendants collectively referred to hereafter as "Defendants"), and alleges:

THE PARTIES

1. Skullcandy, Inc. is a corporation organized under the laws of the State of Delaware and has its principal place of business in Park City, Utah.

2. On information and belief, Anycom Technologies, Inc. is a corporation with headquarters in Newport Beach, California, organized and existing under the laws of the State of Delaware, has designated its registered agent as Keith Elliano and office for purposes of service of process as 2601 Main Street, Suite 150, Irvine, California 92614, and is doing business in this judicial district.

3. On information and belief, Audiovox Corporation is a corporation with headquarters in 180 Marcus Boulevard Hauppauge, New York 11788, organized and existing under the laws of

the State of Delaware, has designated its registered agent as United Corporate Services, Inc. and office for purposes of service of process as 874 Walker Road, Suite C, Dover, Delaware 19904 and is doing business in this judicial district.

4. On information and belief, Cardo Systems, Inc. is a corporation with headquarters in Pittsburgh, Pennsylvania, organized and existing under the laws of the State of Pennsylvania, has designated its registered agent and office for purposes of service of process as 100 High Tower Blvd., Pittsburgh, Pennsylvania 15202, and is doing business in this judicial district

5. On information and belief, I-O Data Device USA, Inc. is a corporation with headquarters in San Jose, California, organized and existing under the laws of the State of California, has designated its registered agent as Takeshi Tone and office for purposes of service of process as 2480 North First Street, Suite 100, San Jose, California 95131, and is doing business in this judicial district.

6. On information and belief, Mustek, Inc. is a corporation with headquarters in Irvine, California, organized and existing under the laws of the State of California, has designated its registered agent as David Wang and office for purposes of service of process as 15271 Barranca Parkway, Irvine, California 92618, and is doing business in this judicial district.

JURISDICTION AND VENUE

7. This is an action for patent infringement arising under the provisions of the Patent Laws of the United States of America, Title 35, United States Code.

8. Subject-matter jurisdiction over Skullcandy's claims is conferred upon this Court by 28 U.S.C. §§ 1331 and 1338(a).

9. On information and belief, Defendants have solicited business in the State of Texas, transacted business within the State of Texas and attempted to derive financial benefit from residents

of the State of Texas, including benefits directly related to the instant patent infringement cause of action set forth herein.

10. On information and belief, the Defendants have placed their infringing products into the stream of commerce throughout the United States with the expectation that they would be offered for sale, sold and/or used in the State of Texas and/or in the Eastern District of Texas, and the Defendants are subject to personal jurisdiction in this judicial district.

11. On information and belief, a number of the Defendants, directly or through their subsidiaries, divisions, groups or distributors have committed acts of infringement in this judicial district

12. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(c) and/or 1400(b).

PATENT INFRINGEMENT

13. On March 6, 2007, U.S. Patent No. 7,187,948 ("the '948 patent"), entitled "Personal Portable Integrator for Music Player and Mobile Phone" a copy of which is attached as Exhibit A, was duly and legally issued to the inventor, Richard P. Alden. Skullcandy is the owner of all right, title and interest in and to the '948 patent, including the right to sue for and recover all past, present and future damages for infringement of the '948 patent

14. Upon information and belief, Defendants, directly or through their subsidiaries, divisions or groups, have infringed and continue to infringe the '948 patent by making, using, selling and/or offering to sell, or allowing others to make, use, sell and/or offer for sale products that are covered by one or more of the claims of the '948 patent. Defendants are liable for infringement of the '948 patent pursuant to 35 U.S.C. § 271.

15. Defendants' acts of infringement have caused damage to Skullcandy, and Skullcandy is entitled to recover from Defendants the damages sustained by Skullcandy as a result of Defendants' wrongful acts in an amount subject to proof at trial

16. As a consequence of the infringement complained of herein, Skullcandy has been irreparably damaged to an extent not yet determined and will continue to be irreparably damaged by such acts in the future unless Defendants are enjoined by this Court from committing further acts of infringement.

17. Upon information and belief, one or more of Defendants' acts of infringement were made or will be made with knowledge of the '948 patent. Such acts constitute willful infringement and make this case exceptional pursuant to 35 U.S.C. §§ 284 and 285 and entitle Skullcandy to enhanced damages and reasonable attorneys' fees.

PRAYER FOR RELIEF

WHEREFORE, Skullcandy prays for entry of judgment that:

A. The Defendants have each infringed the '948 patent;

B The Defendants account for and pay to Skullcandy all damages caused by their infringement of the '948 patent, and to enhance such damages by three times in light of Defendants' willful infringement, all in accordance with 35 U.S.C. § 284;

D. Skullcandy be granted permanent injunctive relief pursuant to 35 U.S.C. § 283 enjoining Defendants, their officers, agents, servants, employees and those persons in active concert or participation with them from further acts of patent infringement;

E. Skullcandy be granted pre-judgment and post-judgment interest on the damages caused to it by reason of Defendants' patent infringement;

F. The Court declare this an exceptional case and that Skullcandy be granted its reasonable attorneys' fees in accordance with 35 U.S.C. § 285;

G. Costs be awarded to Skullcandy; and,

H. Skullcandy be granted such other and further relief as the Court may deem just and proper under the circumstances.

DEMAND FOR JURY TRIAL

Skullcandy demands trial by jury on all claims and issues so triable.

Respectfully submitted,

Dated: March 3, 2008

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